

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CHINEDU DIKE,

Plaintiff(s),

REPORT AND RECOMMENDATION

-against-

CV 11-0431 (JFB) (ETB)

LIFE'S WORC,

Defendant(s).

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TO THE HONORABLE JOSEPH F. BIANCO, United States District Judge:

This is a pro se employment discrimination action by the plaintiff, Chinedu Dike, against his former employer, Life's Worc. The plaintiff resides in the nearby community of Brentwood, New York.

This action commenced in January 2011. The initial conference has been scheduled on two (2) separate occasions - May 25, 2011 and July 7, 2011. The plaintiff has failed to appear and has failed to in any way communicate with the court with respect to his non-appearance. The plaintiff has been advised of dates by the court and also by defendant's counsel, who states that she served plaintiff at the address listed on the docket sheet by Federal Express and by registered mail and that neither correspondence was returned as undelivered. See affidavit of Rose C. Senenko, dated May 26, 2011, and representations by defendant's counsel, Mary A. Smith, on May 18, 2011.

In the order, dated May 25, 2011, the plaintiff was advised that his failure to appear "will expose this action to dismissal for failure to prosecute and/or for failure to comply with the orders of the court. See Rules 41(b) and 16(f), Fed. R. Civ. P."

### RECOMMENDATION

This action should be dismissed, without prejudice, based on the plaintiff's failure to diligently prosecute this action, see Rule 41(b), Fed. R. Civ. P., and based on plaintiff's failure to comply with the orders of the court. See Rule 16(f), Fed. R. Civ. P.

### OBJECTIONS TO THIS REPORT AND RECOMMENDATION

Any written objections to this Report and Recommendation must be filed with the Clerk of the Court, with a copy to the undersigned, within fourteen (14) days of service of this Report. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 72(b). Failure to file objections within fourteen (14) days will preclude further appellate review. Thomas v. Arn, 474 U.S. 140, 145 (1985); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 299-300 (2d Cir. 1992).

Dated: Central Islip, New York  
July 7, 2011

/s/ E. Thomas Boyle  
E. THOMAS BOYLE  
United States Magistrate Judge